

POSTED 1-4-2011

**NOTICE OF INTENT TO ACT ON A REGULATION**

**NOTICE OF PUBLIC HEARING FOR THE AMENDMENT  
AND ADOPTION OF A PERMANENT REGULATION OF  
THE COMMISSIONER OF MORTGAGE LENDING  
NRS 645B  
MORTGAGE BROKERS AND MORTGAGE AGENTS  
LCB FILE No. R091-10**

The Commissioner of the Division of Mortgage Lending (the "Division") will hold a public hearing at 9:00 a.m. on February 4, 2011, at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4500, Las Vegas, NV 89101 and the Attorney General's Office, Mock Courtroom, 100 N. Carson Street, Carson City, NV 89701. The purpose of the hearing is to receive comments from all interested persons regarding the amendment and adoption of a permanent regulation that pertains to Chapter 645B of the Nevada Administrative Code ("NAC").

**FRIDAY, FEBRUARY 4, 2011, 9:00 a.m.**

**LAS VEGAS**

**Grant Sawyer Building  
555 E. Washington Avenue, Suite 3900\*\*  
Room 4500  
Las Vegas, NV 89101**

**\*\*Attendees must sign in first at Suite 3900 and be escorted to Room 4500**

**CARSON CITY**

**Attorney General's Office  
Mock Courtroom  
100 N. Carson Street  
Carson City, NV 89701**

**HEARINGS WILL BE VIDEO-CONFERENCED**

**Information Regarding Adoption**

Upon adoption of any regulation the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The Need For and Purpose of the Proposed Permanent Regulation:** Assembly Bill No. 513, passed in the 2009 Legislative Session, provided, “The Commissioner shall adopt regulations establishing guidelines and limitations for the servicing or arranging of loans of which an investor has ownership or in which an investor has a beneficial interest.” The Commissioner received numerous requests from private investors, as well as licensed mortgage brokers, to enact more guidance related to investments in loans through mortgage brokers, as well guidance in servicing these loans.

2. **How to Obtain a Copy of Proposed Permanent Regulation:** Authority: NRS 645B.060

The Proposed Permanent Regulation and LCB File No. R091-10 dated September 13, 2010 (“LCB File No. R091-10”) will be available at the Division’s website at <http://www.mld.nv.gov/> and at the Division offices at 400 W. King Street, Suite 101, Carson City, NV 89703 and 7220 Bermuda Road, Suite A, Las Vegas, NV 89119. They are also available at the main public library of any county in which the Division does not have an office. Additionally, the Proposed Permanent Regulation and LCB File No. R091-10 are available through the Legislative website at <http://www.leg.state.nv.us/register/>.

NOTE TO THE PUBLIC: The September 13, 2010 version of R091-10 is as reviewed by the Legislative Counsel Bureau for the November 5, 2010 public adoption hearing. At that hearing, it was determined to amend the September 13, 2010 version based on verbal testimony received from participants and comments submitted in writing.

The Division does not believe the amendments being made as a result of the November 5, 2010 hearing change the intent of R091-10 or are material in substance.

3. **Statement of Methods Used By Division in Determining Impact on Small Businesses:**  
The Commissioner has determined through a review of the language of the Proposed Permanent Regulation, the opportunity for comment at the workshops and initial adoption hearing and written submissions, that the Proposed Permanent Regulation imposes additional fees and costs on small businesses and could impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.

The Proposed Permanent Regulation requires, unless waived by the investors, a mortgage broker under certain circumstances to provide to investors in a construction loan a performance bond in an amount not less than 100 percent of the construction amount and conditioned upon the faithful performance of the construction contract.

The Commissioner is mandated by NRS 645B.060 to exercise general supervision and control over mortgage brokers doing business in Nevada and to adopt regulations that are necessary to carry out the provisions of Chapter 645B of NRS.

In addition to permitting investors to waive the performance bond requirement, to mitigate the impact on small businesses the Commissioner structured the performance bonding requirement to tie the bond amount to the construction amount and allow the bond to be

conditioned upon the faithful performance of the construction contract.

**4. Estimated Economic Effects of the Proposed Permanent Regulation on the Business It Is to Regulate and the Public:**

- a. Both adverse and beneficial effects; and**
- b. Both immediate and long-term effects.**

**(1) ESTIMATED ECONOMIC EFFECTS ON THE PUBLIC**

**a. Adverse and beneficial effects**

The Proposed Permanent Regulation will have no adverse economic effect on the public. Rather, the requirements that a mortgage broker establish written mortgage loan servicing guidelines and provide a performance bond for a construction contract, unless waived by the investors, will provide the general public, including investors and borrowers, with greater financial protection. The Proposed Permanent Regulation also requires mortgage brokers to provide more disclosures and information to investors, and establishes compliance time frames for dissemination.

**b. Both immediate and long-term effects**

The immediate and long-term effects of the Proposed Permanent Regulation are deemed to be the same. The Proposed Permanent Regulation will have no adverse economic effect on the public in the immediate future or in the long term. In both cases, the public will benefit by established servicing guidelines and the greater accessibility to information on mortgage professionals. Further, the performance bond will afford the public a source of recovery for damages suffered related to a construction contract.

**(2) ESTIMATED ECONOMIC EFFECTS ON REGULATED BUSINESSES**

**a. Adverse and beneficial effects**

The Proposed Permanent Regulation will have an adverse economic effect on licensees related to costs associated with establishing mortgage loan servicing guidelines, developing new disclosure forms and procuring a performance bond. However, investors may waive procurement of the bond, or the costs associated with the bond may be absorbed by the borrower, and not the mortgage broker.

The beneficial effect of the Proposed Permanent Regulation on the industry will be increased professionalism, knowledge and standards within the industry.

**b. Both immediate and long-term effects**

The immediate and long-term effects are deemed to be the same and consistent with section “a” above.

5. **Estimated Cost to the Agency:** There are no anticipated costs to the Division except for personnel costs which will be absorbed by the Division in the normal course of business.
6. **Duplication With Other Agencies:** There is no known duplication with other agencies known to the Division at this time.
7. **Federal Law:** There is no known duplication with federal law or regulations known to the Division at this time.
8. **New Fee Established:** There are no new Nevada fees related to the Proposed Permanent Regulation.

### **Comments and Written Submissions**

Persons wishing to comment on the proposed action of the Division may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to:

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119  
Attn: Joseph. L. Waltuch, Commissioner

The Division will receive testimony from all interested persons and consider and take action on the Proposed Permanent Regulation and proposed amendments and/or additions and deletions to Chapter 645B of the NAC pertaining to mortgage brokers and mortgage agents. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions. Written submissions must be received by the Division by **Friday, January 21, 2011.**

**NOTICE:** We are pleased to make reasonable accommodations for members of the public who are disabled and wish to participate. If special arrangements are necessary, please call Supervisory Examiner Sheila Walther at (775) 684-7055 as soon as possible so that suitable arrangements can be conveniently made.

### **Copies of Proposed Permanent Regulation**

A copy of this notice, the Proposed Permanent Regulation and LCB File No. R091-10 will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice, the Proposed Permanent Regulation and LCB File No. R091-10 will be available on the Division's website at <http://www.mld.nv.gov/> and at the following Division offices:

Division of Mortgage Lending  
400 W. King Street, Suite 101  
Carson City, NV 89703

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119

In all counties in which an office of the Division is not maintained, copies of this notice, the Proposed Permanent Regulation and LCB File No. R091-10 will be available at the main public library, for inspection and copying by members of the public during business hours. The text of the Proposed Permanent Regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. This notice, the text of the Proposed Permanent Regulation and LCB File No. R091-10 are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at:

<http://www.leg.state.nv.us/register/>

Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

(For ease of understanding the proposed changes, one copy will show ~~deletions~~ and additions for reference. A second copy version will include all of the changes in final format.)

This notice of public hearing has been posted at the following locations on January 4, 2011:

Division of Mortgage Lending  
400 W. King Street, Suite 101  
Carson City, NV 89703

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119

Elko Conference Center  
700 Moren Way (Silver Room)  
Elko, Nevada 89801

State Library  
100 Stewart Street  
Carson City, Nevada 89701

Churchill County Library  
553 South Maine Street  
Fallon, Nevada 89406

Douglas County Library  
1625 Library Lane  
Minden, Nevada 89423

Elko County Library  
720 Court Street  
Elko, Nevada 89801

Goldfield Public Library  
PO Box 430  
Goldfield, Nevada 89013

Eureka Branch Library  
10190 Monroe Street  
Eureka, Nevada 89316

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, Nevada 89445

Lincoln County Library  
PO Box 330  
Pioche, Nevada 89043

Storey County Library  
95 South R Street  
Virginia City, Nevada 89440

Lyon County Library  
20 Nevin Way  
Yerington, Nevada 89447

Mineral County Library  
First & A Street  
Hawthorne, Nevada 89415

Tonopah Public Library  
171 Central Street  
Tonopah, Nevada 89049

Pershing County Library  
PO Box 781  
Lovelock, Nevada 89419

Washoe County Library  
301 South Center Street  
Reno, Nevada 89505

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301

Battle Mountain Library  
625 Broad Street  
Battle Mountain, Nevada 89820